



JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

05cv10355NG

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JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE STANDARD AUTOMOTIVE CORP. RETIREE BENEFITS "ERISA"
LITIGATION**

Mary Desmond, et al. v. Morton C. Batt, et al., D. Massachusetts, C.A. No. 1:05-10355

Elaine L. Chao, etc. v. Anthony L. Scialabba, et al., D. New Jersey, C.A. No. 1:05-3732

**BEFORE WM. TERRELL HODGES,* CHAIRMAN, D. LOWELL JENSEN, J.
FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL,
DAVID R. HANSEN AND ANTHONY J. SCIRICA,* JUDGES OF THE PANEL**

ORDER DENYING MOTION FOR RECONSIDERATION

Presently before the Panel is a motion by the original moving defendants – the Standard Automotive Corp. (Standard Automotive) 401(k) Plan administrators and a law firm which provided services to the Plan¹ – and one Standard Automotive affiliated individual,² for reconsideration of the Panel's May 2, 2006, order transferring one action then pending in the District of New Jersey to the District of Massachusetts for coordinated or consolidated pretrial proceedings with an action pending there before Judge Nancy Gertner. The Massachusetts and New Jersey plaintiffs oppose this motion.

On the basis of the papers filed,³ the Panel finds that defendants have not shown any changed circumstances which justify reconsideration of the Panel's May 2006 transfer order. The Panel was aware of the positions of the responding parties as well as the status of the proceedings in both actions when it rendered that decision. In addition, the Panel is not encumbered by considerations of venue in selecting an appropriate transferee district for the conduct of Section 1407 proceedings.⁴

* Judges Hodges and Scirica took no part in the decision of this matter.

¹ Anthony L. Scialabba, Morton C. Batt and Anthony L. Scialabba & Associates, P.C.

² John E. Elliott, II.

³ See Rule 16.1(c), R.P.J.P.M.L., 199 F.R.D. 425, 439 (2001).

⁴ *In re Peanut Crop Insurance Litigation*, 342 F.Supp.2d 1353 (J.P.M.L. 2004) (citing *In re Great Western Ranches Litigation*, 369 F.Supp. 1406 n.1 (J.P.M.L. 1974) and *In re New York City Municipal Securities Litigation*, 572 F.2d 49 (2d Cir. 1978)).

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IT IS THEREFORE ORDERED that the motion for reconsideration of the Panel's May 2, 2006, transfer order is denied.

FOR THE PANEL:

A handwritten signature in black ink, appearing to read "D. Lowell Jensen", is written over a horizontal line.

D. Lowell Jensen
Acting Chairman